

REGIONAL TRUST FUNDS INVESTMENTS

**POLICIES
FOR INVESTMENT IN CERTIFICATES OF DEPOSIT
IN DESIGNATED FINANCIAL INSTITUTIONS**

- I. It is the policy of the Office of Trust Funds Management (OTFM), whenever possible, to accommodate the wishes of a Tribe or group of Tribes in the placement of their trust funds in designated financial institutions.
- II. Placement of Tribal trust funds will be effected only when the designated financial institutions meet OTFM guidelines as to bank solvency (i.e., capital adequacy, liquidity, level of non-performing assets, etc.).
- III. Tribal trust funds placed in designated financial institutions must be fully insured by the Federal Deposit Insurance Corporation or other Government depository insurance agency, and, for amounts in excess of those agency limitations (\$100,000.00), the depository institution must pledge assets acceptable to the OTFM in amounts sufficient to cover the amount of the deposit.
- IV. If Tribes instruct the OTFM to invest their Tribal trust funds in designated financial institutions at a yield rate less than the OTFM can obtain on Certificates of Deposit (CD's) placed in its weekly CD bid-cycle for like maturities, then the Tribe must furnish the OTFM with a council resolution expressing this understanding and instructing the OTFM to invest the funds at the lower than market rate.
- V. All Tribal trust funds awaiting investment in designated financial institutions will be placed in the U. S. Treasury "Overnight" investment account until proper documentation relative to the transaction is completed.
- VI. Placement of trust funds under this policy will be restricted to those funds in which the Tribe has a current ownership interest and on which the United States is not obligated by law to pay interest at higher rates than can be procured from the designated depository.

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PROCEDURES
FOR INVESTMENT IN CERTIFICATES OF DEPOSIT
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I. TRIBAL PROCEDURES

Tribes wishing the Office of Trust Funds Management (OTFM) to invest their funds in financial institutions designated by the Tribe, thereby not using the normal bank bid procedure, must use the following process:

- A) At the time the Tribe decides it wants to invest funds in regional depository institutions, it should contact the desired depository to determine its interest in participating in such a program. If the institution is desirous of being such a depository, then an officer of the institution must contact Harold Spears, Financial Analyst, OTFM, at (505) 766-2975 to initiate the process by which the institution can be approved as a depository for OTFM trust funds. (The Tribe can contact Mr. Spears and he will explain the proper procedure to the proposed depository institution). All such depositories must be determined to be of sound financial condition before approval can be obtained. The financial institution is required to submit to the OTFM financial reports required by government regulators that indicate capital adequacy, soundness of its assets, proper liquidity, and profitability. (This process also verifies the depository's proper ABA routing number for transfer of funds). After the depository has been approved, the OTFM will contact both the depository and the Tribe indicating the approval and setting up the next step in placing funds in the institution.
- B) A letter of instruction approved by the Area Director should be sent to OTFM by Friday before the week the funds are desired to be invested. Instructions and approval should consist of the following:
 - 1) Amount of investment.
 - 2) Account Number (Appropriation/Proceeds of Labor and activity number) for which the investment is to be made.
 - 3) Period of time funds are to be invested (State maturity date).
 - 4) State name and address of designated depository institution, including name of contact officer and institution's phone number.
 - 5) State rate certificate of deposit is to yield. If rate to be earned by the investment is less than the OTFM can obtain through the normal bid process for the period involved, then the OTFM is to be furnished a copy of the Tribe's council resolution authorizing such investment.

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- 6) Instructions are to be signed by the authorized Tribal finance officer and the Area Director.
- C) Prior to the preparation of the Instruction and approval letter to the OTFM, the Tribe should have contacted the designated depository to obtain agreement as to the terms of the intended certificates of deposits to be placed in said institution (Amount, rate, period, etc.). Specific assurance should be made to the Tribe by the depository that any funds in excess of \$100,000.00 (amount insured by the Federal Deposit Insurance Corporation [FDIC]), will be secured by pledged securities owned by the depository institution. (The OTFM is bound by statute and regulation to accept as collateral for such certificates of deposit only U. S. Government securities and U. S. Government Agency securities as the OTFM can invest in for its beneficiaries. It should be pointed out that the process of securing public money deposits is quite specific and involves considerable paperwork to get set up. The Tribe should expect at least two weeks for this process to be implemented before funds can actually be placed on deposit).

II. OTFM PROCEDURES

The OTFM will, upon receipt of the Tribal letter of instruction, contact the designated depository to determine the timing of funds transfer to effect the investment in the certificate of deposit and to make certain of the proper pledging of securities. Any differences between the Tribal letter of instruction and the depository's understanding will be resolved by the OTFM until agreement by all parties is obtained.

The OTFM will counsel the Tribe during the above process so that the Tribe is aware of market interest rate levels while they are negotiating with the regional depository. It is the intent of the OTFM to facilitate the wishes of the Tribe while simultaneously carrying out its legal and fiduciary requirements and responsibilities.

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FACT SHEET

Tribal Regional Investments

Tribes expressing an interest in participating in the pilot project to determine the effectiveness of placement of Tribal trust funds in regional banks may be assisted in their dealings with such banks if they have a better understanding of the banker's special problems and his interest in such a concept. The following are points that may help:

- A. The better the Tribal leadership personally knows the active bank management, the better will be the response of the bank.
- B. Banks are regulated closely in today's economic environment, which makes them reluctant to loan funds that are considered high risk. However, under the Community Reinvestment Act (CRA), banks must loan funds to entities or individuals that are domiciled in the bank's designated trade territory. A Tribe will have a much better response from the bank that is doing business in the area where the Tribe and its members are located.
- C. Banks are profit oriented. They have to be convinced that any plan will result in their making more net profit. They rarely are interested in a "too long" payback.
- D. Banks that have a reputation of being aggressive lenders will be more interested in receiving Tribal deposits so they can fund those loans. Those banks understand leverage and will be more responsive.
- E. Most local/area/community banks are owned by relatively small groups of investors and, therefore, do not have access to capital markets to raise equity capital for their respective institutions. Current bank regulations require banks to maintain a 6% capital to total asset ratio. In those institutions that have low capital positions, there may be a reluctance to accept large (relative to their total size) deposits, because it would require them to raise additional capital to conform to the regulatory guidelines. Such a bank will be a non-responsive candidate.
- F. If a bank has adequate capital (see E. above), then the larger the Tribal trust deposit relative to the total assets of the bank, the greater will be the interest of the bank in receiving such funds. A very large bank won't get excited about small amounts of money. Structuring a deal with a bank when relatively small amounts of funds are involved will be of greater interest to a smaller community bank than it will to a large regional or money center bank.

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- G. In order to protect the tribe or tribes that own the funds, deposits in excess of the FDIC insured amounts would require the depository bank to pledge securities to secure those deposits. In many local/area/community banks sufficient acceptable securities already owned may not exist, and the bank would then need to use part or all of the tribal deposits to purchase such securities, which would negate the entire point, and the desired loans for tribal members or businesses owned by tribal members could not be made.
- H. Unless the tribes in question are willing to guarantee all or part of the loans made by the bank to their members, most banks will not make loans that do not meet their credit standards or requirements. Therefore, the desired economic impact may not be as great as wanted if the banks don't lend the funds to those individuals that have the greatest need. It is very difficult to force any bank ownership to assume risks that it deems too great. Current bank regulatory attitudes resulting in severity of loan evaluation, together with low current economic activity, accentuates the reality of this point. The banks may take the deposits, but won't lend the money in the manner for which it is intended.

Before levels of expectation are raised too high, it is very important that the Tribe wishing to enter into this pilot project make contact with their bank to see if there is a genuine interest on the part of that bank. The response of the bank is essential to the success of any plan for investment of Tribal trust funds.

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If you require additional information regarding economic development activity involving investments with local or regional banks, please indicate by responding to the questions below. In addition, if you would like your Tribe to become a participant in the pilot project, please indicate by marking the appropriate box. If you have any questions regarding this response sheet, please call Mr. Joe Christie at the number above or fax to the phone number listed.

Respondent's Name & Address:

- ☐ My Tribe is definitely interested. Please provide additional information at our address above.
- ☐ I am and my Tribe are interested in this project. Please provide information to the respondent address above and also to:
- ☐ My Tribe is definitely interested in being considered as a participant in the pilot project.
- ☐ No information is being requested at this time, but please keep my Tribe informed on the progress of this project.

Comments:

(Signature and Title)

(Date)

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